

CONSUMER GRIEVANCE REDRESSAL FORUM
(Established under the section 42 (5) of the Electricity Act, 2003)
MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD.
NASHIK ZONE

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Office of the
Consumer Grievance Redressal Forum
Kharbanda Park, 1st Floor,
Room N. 115-118
Dwarka, NASHIK 422011

No. / CGRF /Nashik/NUC/NUD-1/ 556/32-2016/17/
(BY R.P.A.D.)

Date: 29/11/2016

In the matter of Exorbitant Bill

Date of Submission of the case :28/10/2016
Date of Decision : 29/11/2016

To.

1. M/s. Indus Towers Ltd.,
2010, E-core, 2nd floor,
Marval Edge, Viman Nagar,
Pune 411014
(Consumer No. 049016349282 at Nashik)

Complainant

1. Nodal Officer ,
Maharashtra State Electricity Distribution Com. Ltd.,
Urban Circle Office Nashik.

Distribution Company

2. Executive Engineer (U-1)
Maharashtra State Electricity Distribution Com. Ltd.
Division Office Nashik

DECISION

M/s. Indus Towers Ltd , (hereafter referred as the Complainant) . is the consumer of the Maharashtra State Electricity Distribution Company Ltd. (hereafter referred as the Distribution Company) at Nashik in Panchavati S/Dn. The Complainant has submitted grievance against the Distribution Company for issue of exorbitant bill for July 2016 . The complainant directly approached the Forum without approaching the IGRC as a notice of disconnection has been received . The Forum decided to admit the grievance directly in view of the regulation 6.5 of the CGRF & EO Regulations ,2006 .

The Forum in its meeting on 02/11/2016, decided to admit this case for hearing on 18/11/2016 at 11.30 am in the office of the forum . A notice dated 02/11/2016 to that effect was sent to the complainant and the concerned officers of the Distribution Company with the endorsement that the disconnection should not be done unless the case is decided by the Forum. A copy of the grievance was also forwarded with this notice to the Nodal Officer, MSEDCL, Urban Circle Office Nashik for submitting para-wise comments to the Forum on the grievance within 15 days under intimation to the consumer.

Shri. S.S. Sawairam , Ex. Engr. Nashik Urban Dn. 1, Shri. A. N. Jondhale , Addl. Ex. Engr. ,Smt. R.D, Satpute, Divisional Acctt. Sau. S.S. Bhate, Asstt. Acctt. represented the Distribution Company during the hearing. Shri D.S. Talware appeared on behalf of the consumer.

Consumers Representation in brief :

1. The Panchavati S/Dn. has issued excessive bill of 49,114 units for the month of July 2016, amounting to Rs. 3,02,811.98/- . Prior to this the complainant was receiving all the bills at the average of about 7,500 units per month. Wrong bill is issued by MSEDCL for abnormally high amount about 7 times of the normal average bill. Further a threat of disconnection for non-payment of not due payment to MSEDCL is received .
2. Subsequently the Distribution Company replaced the meter on 3rd or 4th Sept. 2016. The reasons of the same are beyond understanding.
3. M/s. Indus Tower Ltd are infrastructure provider company having about 12000 + consumers throughout Maharashtra paying on line bill regularly to MSEDCL
4. In the month of Aug.16, they received a bill of 8,322 units and in Sept. 16, received a bill of 6,862 units. From above the consumption trend is at the average level of about 7,500 units/ month.
5. A complaint regarding the abnormality of bill was brought to notice of the Distribution Company. A suggestion for testing of meter was given and accordingly a demand note for the same was also issued. Rs. 500/- were paid by the complainant as meter testing charges vide MR No. 9212991 on date, 29/09/2016. Accordingly Distribution Company tested the meter on date 29/09/2016 and declared it faulty.
6. As a vital provider of telecommunication services of mobile network, the complainant have paid @ 50% payment of Aug. 2016 bill to avoid the supply disconnection.
7. Considering above trend, kindly revise the bill as per the average consumption and give necessary credit in the bills. Further, please note that the supply is not disconnected without addressing our complaint and a notice of disconnection as per law.

Consumer's Demands :

1. A Interim order may please be passed on for not to disconnect the power supply of the mobile tower.
2. An order may be issued to correct the bill as per monthly average bill as per the provision of section 21.7.6. CONDITION OF SUPPLY BASED ON THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (ELECTRICITY SUPPLY CODE & OTHER CONDITIONS OF SUPPLY) REGULATIONS, 2005; in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, up to a maximum period of three months. Based on the average metered consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated.
3. Please also pass on necessary order to compensate the loss of Rs. 400/- per hour (Approx.) to maintain the network on DG which is a public emergency service and Rs. 10000/- towards mental harassment of company personals. The proof of cost towards DG maintenance is bring submitted at the time of hearing please.

Arguments from the Distribution Company.

The Distribution Company submitted a letter dated 16/11/2016 from the Nodal Officer Nashik Urban Circle and other relevant correspondence in this case. Putting forth the arguments on the points raised in the grievance the representatives of the Distribution Company stated that:

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Observations by the Forum:

1. The CPL data shows the consumption trends of the complainant as under:

Month	Consumption	Remarks
Jul-15	7818	-
Aug-15	8214	-
Sep-15	5897	-
Oct-15	6011	-
Nov-15	11382	-
Dec-15	7578	-
Jan-16	6842	-
Feb-16	7504	-
Mar-16	8207	-
Apr-16	7490	-
May-16	7986	-
Jun-16	7764	-
Jul-16	49114	Abnormal Consumption
Aug-16	8322	-
Sep-16	6862	-
Oct-16	7119	-

It is seen that only for the month of July -16 the exorbitant/abnormal consumption is recorded.

2. The meter no. 04935460 on which this abnormal consumption was recorded has been tested on 29/09/2016 by the Distribution Company. As per the test report the meter has "stopped" recording. As the test report indicated stopped meter, this is a case of defective meter hence covered under regulation 15.4 of MERC (Electricity Supply Code and other Conditions of Supply), 2005. The said regulation 15.4 of provide guidelines for billing in the event of defective Meters as under:

"Subject to the provisions of Part XII and Part XIV of the Act, in case of a defective meter, the amount of the consumer's bill shall be adjusted, for a maximum period of three months prior to the month in which the dispute has arisen, in accordance with the results of the test taken subject to furnishing the test report of the meter along with the assessed bill.

Provided that, in case of broken or damaged meter seal, the meter shall be tested for defectiveness or tampering. In case of defective meter, the assessment shall be carried out as per clause 15.4.1 above and, in case of tampering as per Section 126 or Section 135 of the Act, depending on the circumstances of each case.

Provided further that, in case the meter has stopped recording, the consumer will be billed for the period for which the meter has stopped recording, up to a maximum period of three months, based on the average metered consumption for twelve months immediately preceding the three months prior to the month in which the billing is contemplated....."

3. The plain reading of the above regulation 15.4 reveal that , in case the meter is detected stopped , the correction can be made for the month of July 2016 based on the average metered consumption for preceding twelve months i.e. for the period July 2015 to June 2016. As there is no dispute about the bills for the months prior to July 2016 or after July 2016 no correction is suggested in these bills.
4. As per letter dated 18/11/2016 by the Additional Executive Engineer, Panchvati Subdivision the supply was disconnected after giving notice but reconnected on 04/10/2016 under instructions from the seniors after receipt of an amount of Rs. 1,80,570. It is seen that the Additional Executive Engineer, Panchvati Subdivision has submitted a notice dated 15/10/2016 issued to the complainant for paying the arrears of the electricity bill threatening for disconnection in

case of failure to do so. The AEE had stated during the hearing . that such a notice was also issued prior to 04/10/2016 and assured to submit the copy of the same to the Forum. The Additional Executive Engineer, Panchvati Subdivision later submitted on 22/11/2016 the copy of a notice dated 15/09/2016 . This notice has a remark that the representative of M/s Indus Towers did not collect this notice in spite of contacting 4/5 times him on phone. But this explanation is not satisfactory. The Forum notes that the Distribution Company has failed to observe strictly the provisions in section 56 read with the section 171 of the Electricity Act ,2003 .

- ✓ The section 56 (1) of the Electricity Act ,2003 states as under:

56. (1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days notice in writing, to such person and without prejudice to his rights to recover such charge or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

- ✓ According to the section 171 (2) of the Electricity Act, 2003:

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

5. The Forum clarified that the disconnection can be done after 15 days counted from the date of receipt of the notice by the consumer . The Distribution Company failed to deliver the notice dated 15/09/2016 to the consumer and disconnected the supply. The Distribution Company should have followed the procedure as per section 171 (2) of the Electricity Act ,2003 for delivering this notice if it was not collected by the consumer. . As such the action of the disconnection prior to 04/10/2016 is violation of the provisions of the Electricity Act,2003 This point is brought to the notice of the Chief Engineer , Nashik Zone with a request to properly instruct the concerned officers.
 6. It is also observed that the Distribution Company while reconnecting the supply has recovered reconnection charges , processing Fees and minimum charges . As the action of the disconnection is not done following the proper procedure , the Forum directs the Distribution Company to refund all the charges taken for reconnection.
 7. It is also seen that the concerned officer has not acted proactively in this case. The following points show this :
 - ✓ It is a fact that only in the month of July the consumption shot up 7 times .
 - ✓ The meter no. 04935460 was replaced on 11/09/2016. by the Distribution Company. The reason for replacement is shown as "Stop Meter". Hence the bill based on this meter becomes disputed. Under these circumstances instead of using the regulation 15.4 of MERC (Electricity Supply Code and other Conditions of Supply), 2005 , the concerned officer resorted to disconnection. In fact the section 56(1) of the Electricity Act ,2003 provides opportunity to the consumer to pay the part of the bill pending the resolution of the dispute . As per this section:

"..... the supply of electricity shall not be cut off if such person deposits , under protest, -

 - (a) an amount equal to the sum claimed from him, or*
 - (b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.*
- The Distribution Company has not provided this opportunity to the complainant.

- ✓ In spite of payment of Rs. 1,80,570/- on 04/10/2016 which is almost 50% of the bill raised , the Distribution Company immediately issued disconnection notice on 15/10/2016.
8. The complainant has requested to compensate the loss of Rs. 400/- per hour to maintain the network on DG which is a public emergency service and Rs. 10000/- towards mental harassment of company personals. This can not be granted by the Forum as the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014 do not provide for any such compensation by the Forum.

After considering the representation submitted by the consumer, comments and arguments by the Distribution Licensee, all other records available, the grievance is decided with the observations and directions as elaborated in the preceding paragraphs and the following order is passed by the Forum for implementation:

ORDER

1. Bill for the month of July 2016 should be revised based on the average metered consumption for preceding twelve months i.e. for the period July 2015 to June 2016 and the excess amount recovered and the all the charges taken for reconnection should be refunded in the ensuing bill with the interest till the date of refund , at bank rate of RBI .
2. As per regulation 8.7 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 , order passed or direction issued by the Forum in this order shall be implemented by the Distribution Licensee within the time frame stipulated and the concerned Nodal Officer shall furnish intimation of such compliance to the Forum within one month from the date of this order.
3. As per regulation 22 of the above mentioned regulations , non-compliance of the orders/directions in this order by the Distribution Licensee in any manner whatsoever shall be deemed to be a contravention of the provisions of these Regulations and the Maharashtra Electricity Regulatory Commission can initiate proceedings suo motu or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Electricity Act, 2003.
4. If aggrieved by the non-redressal of his Grievance by the Forum, the complainant may make a representation to the Electricity Ombudsman, 606, 'KESHAVA', Bandra Kurla Complex, Bandra (East), Mumbai 400 051 within sixty (60) days from the date of this order under regulation 17.2 of the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006.

(Rajan S. Kulkarni)
Member

(Hari V. Dhavare)
Member-Secretary

(Suresh P.Wagh)
Chairman

Consumer Grievance Redressal Forum, Nashik Zone

Copy for information and necessary action to:

- 1 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For Ex.Engr.(Admn)
- 2 Chief Engineer , Nashik Zone, Maharashtra State Electricity Distribution Company Ltd. , Vidyut Bhavan, Nashik Road 422101 (For P.R.O)
- 3 Superintending Engineer, Maharashtra State Electricity Distribution Company Ltd. , Urban Circle Office , Nashik .